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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/721,421	11/22/2000	William J. Wied	00-0213.06/US/5	2891
21491	7590	11/15/2004	EXAMINER	
LANIER FORD SHAVER & PAYNE P O BOX 2087 HUNTSVILLE, AL 35804			HAQ. NAEEM U	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/721,421

Applicant(s)

WIED ET AL.

Examiner

Naeem Haq

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HW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 16-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 16-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

This action is in response to the Applicants' amendment and remarks filed August 3, 2004. Claims 12-15 and 20 have been canceled. Claims 1-11 and 16-19 are pending and will be considered for examination.

Claim Objections

Claims 17 and 18 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicants are required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. These claims are dependent on canceled claim 14.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims are dependent on canceled claim 14. Therefore, the scope of claims 17 and 18 is unclear to the Examiner. An art rejection has been withheld pending a clarification of the scope of claims 17 and 18.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3, 4, 9, 16, and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Blalock et al. (US 2001/0047284 A1) hereinafter referred to as Blalock.

Referring to claims 1, 16, and 19, Blalock discloses a method and system of facilitating commerce between shippers and carriers, said method comprising:

- capturing electronic shipment requests for available shipments, said electronic shipments requests originating from remote shippers (page 3, paragraphs [0053], [0058], and [0059]; page 4, paragraph [0066]; Figure 36) and including shipment specific criteria (page 5, paragraph [0086] and [0090]) and carrier access criteria (pages 5 and 6, paragraph [0096]);
- storing said electronic shipment requests in a database of a DMS (page 3, paragraph [0058]; page 5, paragraph [0090]);
- presenting said electronic shipment requests to remote carriers meeting the carrier access criteria (page 14, paragraph [0187]; page 16, paragraph [0210]; page 16 paragraphs [0208] – [0213]);

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- receiving carrier fulfillment offers responsive to said presented electronic shipment requests (page 16, paragraph [0216]; page 18; paragraph [0228]); and
- presenting said responsive carrier fulfillment offers to the remote shippers originating said electronic shipment requests (page 1, paragraphs [0012] and [0013]).

Referring to claim 3, Blalock teaches selecting one or more carrier fulfillment offers for available shipments (page 1, paragraphs [0012] and [0013]).

Referring to claim 4, Blalock teaches delivering said electronic shipment requests to remote carriers in response to a remote carrier search of said DMS (page 1, paragraph [0012]; page 18, paragraph [0230]).

Referring to claim 9, Blalock discloses receiving manually entered electronic shipment requests through a user interface (page 3, paragraph [0053] – page 6, paragraph [0104]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 5, 8, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blalock et al. (US 2001/0047284 A1) hereinafter referred to as Blalock.

Referring to claim 2, Blalock does not explicitly disclose that the carrier fulfillment offers at least satisfy the shipment specific criteria. However, Blalock discloses that once bidding is closed, the shipper can view all the bids and then award a route to selected carriers (page 1, paragraphs [0012] and [0013]). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have the shipper select an offer that at least satisfied the shipment criteria. One of ordinary skill in the art would have been motivated to do so in order to ensure that the shipper's criteria was met by the carrier.

Referring to claim 5, Blalock teaches notifying the remote carriers when their fulfillment offers are accepted by the remote shippers (page 3, paragraph [0062]).

Referring to claim 8, Blalock discloses analyzing and presenting the information stored in the database to shipper and carriers (Figures 16-1 and 16-2).

Referring to claim 11, Blalock discloses that his invention is implemented over the Internet using the World Wide Web and HTML (page 3, paragraphs [0052] – [0056]). Therefore defining and interpreting communication protocol is inherent in Blalock.

Claims 6, 7, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blalock et al. (US 2001/0047284 A1) hereinafter referred to as Blalock in view of Official Notice.

Referring to claim 6, Blalock does not teach facilitating an electronic payment from the remote shipper to the selected remote carrier. However, Official Notice is taken that it is old and well known in the art to use electronic payments between parties in order to facilitate a transaction. Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate this feature into the invention of Blalock. One of ordinary skill in the art would have been motivated to do so in order to facilitate a commercial transaction between the shipper and carriers.

Referring to claim 7, Blalock discloses storing electronic shipment requests and carrier fulfillment offers in a database of said DMS (page 3, paragraph [0058]; page 5, paragraph [0090]; page 18; paragraph [0228]). Blalock does not teach storing information relating to electronic payment in the database of the DMS. However, Official Notice is taken that it is old and well known in the art to do so. Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate this feature into the invention of Blalock. One of ordinary skill in the art would have been motivated to do so in order to have a record of a transaction in the event a dispute occurred between the two parties.

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Referring to claim 10, Blalock does not teach receiving electronic shipment request from a remote automated system. However, Official Notice is taken that it is old and well known in the art to do so. One of ordinary skill in the art would have been motivated to do so in order to automate a manual process.

Response to Arguments

Applicants' argument with respect to the Bjerre et al. reference (filed August 3, 2004) has been fully considered and is persuasive. The Bjerre reference is hereby withdrawn.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naeem Haq whose telephone number is (703)-305-3930. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W. Coggins can be reached on (703)-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Naeem Haq, Patent Examiner
Art Unit 3625

November 3, 2004



WARREN W. COGGINS
SUPERVISORY PATENT EXAMINER
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